A ZONING ORDINANCE
FOR THE TOWN OF FREMONT, N H

NOTE:

1. At the Town Meeting in 1947 the Town of Fremont, N.H. adopted Land Subdivision Control. A copy of regulations pertaining to subdivision of land may be obtained from the Fremont Planning Board.

2. Building permit applications may be obtained from the Fremont Building Inspector and should be submitted to same.

Fremont Zoning Ordinance as Adopted March 11, 1947, and subsequently amended:

To promote the health, safety, convenience and general welfare of the Town of FREMONT, to secure efficiency and economy in the process of developing the town and keeping it an attractive place in which to live and do business, the following ordinance is hereby enacted by the voters of said Town in annual meeting convened, in accordance with authority conferred by Chapter 51, Sections 50 to 71 and by Chapter 53, Sections 14 and 15 of the Revised Laws of New Hampshire, 1942.

ARTICLE I

Section 1. The following articles shall apply to the entire Town of FREMONT.

ARTICLE II

Section 1. Nothing in this ordinance shall be construed to prevent the continuance of any existing use of land or building.

ARTICLE III

Section 1. NON-CONFORMING USES AND STRUCTURES

A. Reconstruction of:

Any non-conforming structure which is completely or substantially destroyed by casualty loss may be replaced with a similar structure which has the same building footprint dimensions and meets the setbacks of the previously existing structure. The structure may be rebuilt provided such construction is started within one year of the casualty loss and complete within two (2) years of the casualty loss. The provisions of the Town of Fremont Building Code, as amended, shall apply to any reconstruction.

B. Expansion of Non-conforming uses:

Except as noted below, an expansion of a non-conforming use is prohibited except by variance by the Zoning Board of Appeals.

A variance is not required if the expansion is a natural expansion which does not change the nature of the use, does not make the property proportionately less adequate, and does not have a substantially different impact on the neighborhood.

C. Expansion of Non-conforming Structures:

Non-conforming structures may be expanded in accordance with the terms of a special exception issued by the Zoning Board of Adjustment, which must find the following factors to exist before issuing such a special exception:

1. The proposed expansion must intrude no further into any setback area than does the existing structure.
2. The expansion must have no further adverse impact on the view, light and air of any abutter.
3. The expansion must not cause property values to deteriorate.
4. The expansion must not impede existing rights of access or egress.
5. That portion of the proposed expansion, which will intrude into the setback must, in no event, exceed the footprint square footage of that portion of the structure which presently intrudes into the setback, regardless of the number of applications made over time under this subsection.
6. In the event the non-conforming structure contains a commercial use, there must be no adverse impact on access, traffic, parking, lighting or other safety or visibility features of the existing structure.
7. A special exception under this subsection may be granted only as to expansions into the side, front, and rear setbacks, and is not available for expansions which violate height restrictions of this ordinance.

D. Discontinuance of:

In the event that a non-conforming use is voluntarily discontinued for a period of one year, such non-conforming use shall be deemed abandoned and shall not be able to resume without compliance with the zoning ordinance or, alternately, without a variance from the zoning board of adjustment. Voluntary abandonment shall be evidenced by either of the following:

1. Discontinuance of the occupancy or nonconforming use for twelve (12) consecutive months with no ongoing attempts to sell or lease the property for its non-conforming use; or,

2. Failure to resume the nonconforming use within eighteen (18) months, even though there may be ongoing efforts to sell or lease the property for its non-conforming use.

E. Continuance of:

1. All non-conforming structures and uses which predate the adoption or amendment of this ordinance may continue in their present use. These uses shall run with the land and may be transferred by sale or lease by present owner to future owners or lessees, subject to the other terms of this Ordinance which limit such non-conforming uses.

2. All new uses, changes of uses, expansion of uses or resumption of uses previously discontinued shall not be permitted until the property owner or authorized lessee has first made application to the Town of Fremont Code Enforcement Officer for an administrative decision seeking a determining whether a permit is required for such new, change, expansion or resumption of the non-conforming use or non-conforming structure under the terms of this ordinance. If a permit or other application is required, such use may not proceed until such application has been made a processed as required by town regulations and ordinances.

Section 2. No new junk yard or place for the storage of discarded machinery, vehicles or other materials shall be maintained in any part of said TOWN OF FREMONT unless written permit to make exception to this requirement is applied for by an applicant and granted by the Board of Selectmen. The Board of Selectmen before granting a permit shall consider the effect such a junk yard will have upon adjacent property and shall prescribe such conditions as in their judgment will prevent a nuisance or a danger to the health, safety and general welfare of the community.

Section 3. The following types of signs only shall be permitted: Town, State and Federal Highway directional and regulatory signs, historic signs, those relating to the sale or lease of the premises, the profession or home occupation of the occupant, property restriction signs, identification signs for residences, the sale of goods or products sold on the premises except that in such case no signs or group of signs shall exceed twenty-five (25) square feet in area and shall not be placed so as to obstruct view on Highway.

Section 4. New commercial business or industrial enterprises shall be encouraged, provided that such commercial, business or industrial enterprises will in no way be harmful to the general welfare of the community.

Section 5. MANUFACTURED HOUSING USE REGULATIONS

1. No new manufactured housing parks or expansions of existing manufactured housing parks shall be permitted.

2. Manufactured housing shall be allowed on individual lots under the following conditions:

   A. All permanent manufactured housing shall be placed on a permanent foundation or on foundation piers.
   B. The design and construction of the permanent foundation of permanent foundation piers shall comply with current amended Building Codes at the time of construction.

   C. All manufactured housing to be placed on lots within the Town of Fremont shall be certified as US Department of Housing & Urban Development (HUD) approved.

   D. All manufactured housing shall comply with lot dimensions, setbacks, and other applicable requirements of Article IV of this ordinance.

   E. All manufactured houses (mobile homes) located on any lot within the Town of Fremont shall be placed, established, used and/or occupied as a single family detached dwelling.

3. The temporary placement of manufactured housing on conforming lots may be permitted by the Board of Selectmen.

4. The Board of Selectmen shall set the conditions and criteria by which the temporary placement of manufactured housing shall be permitted on a conforming lot.

ARTICLE IV

Section 1. Any new structure or extension of existing structure intended for any use shall be set back from the street property line at least fifty (50) feet. In the case of multiple family dwelling structures, the set back shall be increased by an additional five (5) feet per family dwelling unit. ie: (50 plus (5 multiplied by the number of family units)). And that any such structure shall be set back from the side and rear lot lines by at least thirty (30) feet except in the case of multiple family dwelling structures, this set back shall be increased by an additional ten (10) feet per family dwelling unit, ie: (30 plus 10 multiplied by the number of family units).

Section 2. Every building lot shall have a minimum contiguous lot frontage on Federal, State and Town highways of two hundred (200) feet provided that where lots are located on exterior side of a curving street the minimum road frontage shall be no less than one hundred (100) contiguous feet, provided that the average width of the lot measured across its center shall be two hundred (200) feet. Building lots on which multiple family dwellings are located shall have an additional frontage of twenty (20) feet per family unit when less than five (5) family units and forty (40) feet per family unit when five (5) or more family units are considered. ie: (200 plus 20 multiplied by the number of family units) or (200 plus 40 multiplied by the number of family units). No lot line shall be less than one hundred (100) feet and each lot shall have no less than four (4) lot lines.

Section 3. No lot shall be less than two (2) acres in area except that lots on which multiple family dwellings are located shall be increased by 12,000 square feet per family dwelling unit when less than five (5) units and by 20,000 square feet per family unit when five (5) or more family units, ie: 2 Acres plus 12,000 multiplied by the number of family units or 2 Acres plus 20,000 multiplied by the number of family units. No lot shall have more than one (1) occupied dwelling thereon.

Section 4. This section removed March 8, 2005.

Section 5. The maximum percentage of each building lot which may be occupied by buildings, off street parking areas, driveways, septic systems and associated leaching fields shall be thirty (30) percent.

Section 6. At least one (1) acre of contiguous land of every lot, laid out for residential use (after the adoption of this amendment) shall be buildable land with soils dry enough (to permit) for installation (and use of facilities for disposal) of sanitary waste(s) disposal facilities and shall not have slopes exceeding twenty percent (20%). Wetlands as described in this zoning ordinance are excluded as buildable land. To facilitate determination of the existence of sufficient buildable land, reference should be made to USDA soils maps where indications are given of soil types, ledge conditions, slopes, (Height of) water table, and permeability of soils or by individual lot testing (of area in question).

Section 7. During excavation of test pits and/or percolation tests there will be a certified soil scientist or other approved official present that will certify all results with his seal and/or signature.

Section 8. All sanitary disposal systems (septic tanks, Leach fields, etc.) shall have no portion within thirty (30) feet of any lot line, or within one hundred (100) feet of any wetland or water supply.

Section 9. Any lot existing at the effective date of this ordinance, lawfully created by deed or recorded plan at the Rockingham County Registry of Deeds, shall be exempt from the lot size, frontage and structure setback standards of this ordinance; provided that each such lot and structure thereon shall comply with the lot size, frontage and structure setback standards in effect at the time of the creation of the lot. Each such lot and structure shall comply with all other provisions of this ordinance.

Provided further that lots existing prior to March 5, 1974 shall be exempt from Article IV, Section 8 provided that they meet the specifications of the State of New Hampshire Water Supply and Pollution Control Commission for installation of water supply and septic systems.

Section 10. All multi-family dwelling units, which are defined as any structures containing more than two (2) dwelling units, whether or not such development includes a subdivision or resubdivision of the site shall require review and approval for site plans for the development or change or expansion of use of tracts by the Planning Board. The Town Clerk or other appropriate recording official shall file with the register of deeds, a certificate of notice showing that the Planning Board has been so authorized, giving the date of such authorization.

ARTICLE V

Section 1. All dwellings and structures shall meet the requirements stated in the 2000 edition of the ICC Codes.

Section 2. Each dwelling or mobile home shall have a minimum ground floor area of at least six hundred (600) square feet inside measurement for each family unit, provided further that minimum floor area shall be one hundred fifty (150) square feet per occupant.

Section 3. Occupied buildings and structures shall not exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

Section 4. Sewage: All building lots with occupied dwellings and buildings in private and public use shall be equipped with a state approved septic disposal system.

Section 5. The roof of every building hereafter erected or recovered in part or in whole shall be covered with fire-resisting materials, except that this section shall not be construed to prohibit the use of wood shingles in repairing any roof now covered with wood shingles.

Section 6. All multiple unit dwellings shall conform to and shall not exceed the following limitations:

Number of Family Units	Number of Bedrooms/Family Unit
7 - 8	One
5 - 6	Two
3 - 4	Three
2	Four

Section 7. Reconstruction of buildings: Any structure destroyed by fire, explosion, flood, storm, or other Act of God may be rebuilt or reconstructed within one (1) year of its destruction except, that if a non-conforming use is destroyed to a degree of over fifty (50) percent as determined by assessed valuation it must, when rebuilt, conform to the terms of this ordinance as to its construction.

Section 8. The construction of a small detached accessory building (100 SQUARE FEET OR LESS) together with minor alterations and repairs and general upkeep of existing buildings shall not require a building permit.

Section 9. All existing structures if converted into multiple family dwelling units shall meet all requirements specified in the current zoning ordinances.

Section 10. All dwellings and buildings shall meet the Life Safety Code in accordance with NFPA Section 101 - 2000 Edition.

Section 11. All driveway construction, reconstruction, resurfacing, or paving where it accesses a Town right of way must have an issued permit prior to work beginning. Work completed without permit may be required to be altered or reconstructed so as to meet town Driveway Specifications.

ARTICLE V-A

Section 1. The excavation and removal of earth, loam, topsoil, gravel, clay or stone for use or sale other than that excavation or removal which is necessary and incidental to the construction or alteration of a building, for which a building permit has been obtained or incidental to property maintenance or improvement where sale of these materials is not involved is prohibited without a written permit obtained from the PLANNING BOARD. The PLANNING BOARD will regulate all gravel operations in accordance with the EXCAVATION REGULATIONS adopted by the Planning Board and the most current State Regulation (RSA 155E or most current).

ARTICLE VI

Section 1. The Board of Selectmen or designee shall constitute a Board of Building Inspectors and shall be the Administrative Officers of this ordinance.

Section 2. It shall be unlawful for any person to commence work for erection or alteration of any building or structure until a permit has been duly granted for such erection or alteration by the Selectmen or designee and the said Selectmen or designee shall base their approval or rejection of proposed plans upon the effect such operations are likely to have upon the value and/or use of other property in the vicinity and/or the Town, and upon the provisions of the Ordinance.

Section 3. The Board of Selectmen or designee shall require that the application for building permit include a plot plan and contain all necessary information to enable them to ascertain whether the proposed buildings or structures and their intended use comply with the provisions of this ordinance.

Section 4. No building permit shall be issued until the Board of Selectmen or designee has certified that the proposed building or structure and its intended use comply with the provisions of this ordinance.

ARTICLE VII

Section 1. BOARD OF ADJUSTMENT:

a. The Board of Selectmen shall appoint a Board of Adjustment.

b. Board of Adjustment: Such local legislative body shall provide for the appointment of a Board of Adjustment and in regulations and restrictions adopted pursuant to the authority hereof shall provide that the said Board may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

c. Members of Board, Term, Vacancies: The Board of Adjustment shall consist of five (5) members. On the date of the expiration of the terms of the present members of any Board of Adjustment the appointing authority shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years and one (1) member for a term of five (5) years. Said members shall be removable by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term.

d. Meetings of the Board, etc: The Board shall adopt rules in accordance with the provisions of the ordinances. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

e. Appeals to Board: Appeals to the Board of Adjustment may be taken by any person aggrieved of by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the records upon which the action appealed from was taken.

f. Effect of Appeal: An appeal stays all proceedings under the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Superior Court on notice to the officer from whom the appeal is taken and cause shown.

g. Appeals to Board: Notice of Hearing: The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as notice to the parties in interest and decide the same within a reasonable time. Upon hearing any party may appear in person or by agent or attorney.

h. Powers of Board: The Board of Adjustment shall have the following powers:

I. To hear and decide appeals where it is alleged there is an error in any requirement, decision or determination made by an administrative official in the enforcement hereof of any ordinance adopted pursuant thereto.

II. To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

III. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

IV. In exercising the above mentioned powers such board may, in conformity with the provisions hereof, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision, as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

V. The concurring vote of three members of the board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

i. Disqualification of Board Member: No member of the Board of Adjustment shall sit upon the hearing of any question which the board is to decide in a judicial capacity who would be disqualified from any cause, except exemption from service and knowledge of the facts involved gained in the performance of his official duties, to act as a juror upon the trial of the same matter in any action at law. If a member shall be disqualified or unable to act in any particular case pending before the board the appointing authority, upon application of the board, shall appoint a member to act in his place upon said case.

j. Appeals to Court: Any person aggrieved by any decision of the Board of Adjustment, or any decision of the legislative body of such municipality in regard to its plan of zoning, or any taxpayer, or any officer, department, board, or bureau of the municipality, may apply to the Superior Court, within thirty days after the action complained of has been recorded, by a sworn petition, setting forth that such decision is illegal or unreasonable, in whole or in part, specifying the grounds upon which the same is claimed to be illegal or unreasonable.

k. Appeals to Court - Procedure: The court shall direct the record in the matter appealed from to be laid before it, hear the evidence and make such order approving, modifying or setting aside the decision appealed from as justice may require, and may make a new order as a substitute for the order of the board. The filing of the petition shall not stay proceedings upon the decision appealed from, but the court may, on application, notice to the board and on cause shown, grant a restraining order.

l. Appeals to Court - Certifying Record: An order of court to send up the record may be complied with by filing either the original papers or duly certified copies thereof, or of such portions thereof as the order may specify, together with a certified statement of such other facts as show the grounds of the action appealed from.

m. Appeals to Court - Hearing, etc: The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact and conclusions of law.

n. Appeals to Court - Costs: Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

o. Speedy Hearing: All proceedings under this subdivision shall be entitled to a speedy hearing.

p. Remedies for Violations: In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or any building structure, or land in violation hereof or of any ordinance or other regulation made under authority conferred hereby. The proper local authorities of the municipality, in addition to other remedies may institute any appropriate action or proceedings to prevent such unlawful action to restrain, correct, or abate such violation, to prevent the occupancy of the buildings, structure or land, or any illegal act or use in or about such premises.

q. Conflicting Provisions: Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance, or other regulation, that provision which imposes the greater restriction or higher standard shall govern.

ARTICLE VIII

Section 1. Upon any well-founded information that this ordinance is being violated the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other appropriate legal action.

Section 2. The terms and conditions of this ordinance shall apply to any building or structure which may be moved into town in total or in part already constructed.

Section 3. Whoever violates any of the provisions of the regulations of this ordinance shall be punished upon conviction by a fine not exceeding two hundred seventy-five dollars ($275.00) for each day of violation.

ARTICLE IX

WETLAND AND WATERSHED PROTECTION DISTRICT

A. Authorities and Purpose

1. Establishment of this ordinance with the authority vested in the Fremont Planning Board by the voters of the Town of Fremont, N.H. on March 11, 1947 and the authority vested in the Conservation Commission by the voters of the Town of Fremont, N.H. on RSA 36-A:1-6.

2. Purpose: In the interest of public health, convenience, safety, and welfare, the regulation of the District are intended to guide the use of areas of lands draining into wetlands, rivers, brooks, ponds or water supply areas; to control building and land uses which would contribute to pollution of surface and ground water by sewage; to prevent the destruction of watershed areas and wetlands which provide flood protection, recharge of ground water supply, and augmentation of stream flow during dry periods; to prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of watershed areas and wetlands; to encourage those uses that can be appropriately and safely located in this district.

B. Administration

1. Administration of the provisions of this ordinance shall be coordinated with the Fremont Conservation Commission through the designated commission member represented on the Fremont Planning Board. Responsibilities of said member shall be consistent with RSA 36:0 and RSA 36-A:2-3.

2. To the extent possible the Watershed Protection District shall, through the Planning Board, maintain close coordination with surrounding watershed districts and regional watershed authorities.

C. Definitions

1. Wetlands: Wetlands means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adopted for life in saturated soil conditions.

2. Watershed Protection Area: Watershed Protection Area shall mean an area of land surrounding designated wetlands for the purpose of controlling building and land uses which would contribute to the pollution of surface and ground water, and preventing the destruction of watershed areas and wetlands which would provide flood protection. Land areas designated as Watershed Protection Areas shall comply with the provisions of Section E.

a. Watershed Protection Area: - Permanent flowage; (rivers, brooks, streams and ponds) shall include all lands within one hundred fifty (150) feet of the mean annual high of the Exeter River, Piscassic River, Loon Pond, Red Brook, and Brown Brook and other streams to be named.

b. Watershed Protection Area: - intermittent flowage; Any brook, stream, or pond having flowing or standing water for six (6) months of the year shall include all lands within one hundred (100) feet of the center line of said brook or stream and one hundred (100) feet from the mean annual high of said pond.

c. Watershed Protection Area: Wetlands: shall include that land area within one hundred (100) feet of any designated wetland. In addition, the protection area shall include "poorly drained" and "very poorly drained" soils and a one hundred (100) foot buffer around these soils.

d. Sections a – c above shall be considered minimum buffer areas for watershed protection. In certain cases the Board may require increased watershed boundaries when considering, but not limited to, the following: when areas abutting watershed protection areas have excessive inclines of twelve percent (12%) or greater, importance of watershed to water supply, importance of watershed to wildlife habitat. If the Board makes a determination that increased watershed protection is necessary, the Board may require the watershed protection area to be increased by up to and not to exceed one hundred feet (100').

3. Prime Wetlands: Shall mean any areas falling within the jurisdictional definitions of RSA 482-A:3 and RSA 482-A:4 that possess one or more of the values set forth in RSA 482-A:1 and that, because of their size, unspoiled character, fragile condition or other relevant factors, make them of substantial significance. Such maps or designations, or both, shall be in such form and to such scale, and shall be based upon such criteria, as are established by the commissioner through rules adopted pursuant to RSA 541-A.

D. Test Procedures (Subdivisions Regulation): Soil testing procedures shall be subject to the prior review, approval and on site inspection by the Planning Board or its designate. Such procedures shall be conducted by, and at the expense of, the landowner/subdivider. A complete record of the tests shall be submitted to the Selectmen and placed on file with the Planning Board.

E. Uses Permitted: Any of the following uses that do not result in the erection of any dwelling or building in public or private use or alter the surface configuration of the land may be permitted in this district consistent with State and Federal wetland regulations:

1. Forestry, tree farming, within the limits of RSA 224:44a.
2. Agriculture, including grazing, farming, truck gardening, and harvesting of crops, except that mink farms and piggeries shall not be included in this district.

3. Drainage ways, streams, creeks, or other paths of normal run-off water.
4. Water impoundments and well supplies.
5. Wildlife refuge.
6. Open space as may be permitted by subdivision regulations and other sections of this ordinance.

F. Special Provisions

1. No waste disposal system may be located closer than one hundred (100) feet to any wetland.
2. No waste disposal system may be located within a watershed protection area.
3. Wetlands shall not be used to satisfy the minimum lot area and setback requirements but may be included in the total lot area.
4. Watershed protection areas may be included in the minimum lot size requirements. All dwellings, structures, or parking areas shall have no portion within the Watershed Protection Area and/or no portion closer to Wetlands than those limits defined under Article IV as setback requirements.

G. Prime Wetlands: In accordance with RSA 482-A:15 the wetland system commonly known as “Spruce Swamp” and described in documents and maps filed by the Planning Board and Conservation Commission with the Town Clerk and the State of New Hampshire Department of Environmental Services, is hereby designated as a prime wetland.

H. Special Exceptions: The Board of Adjustment, after proper public notice and public hearing, may grant special exceptions for the following uses within the district, the application for such uses having been referred by the Planning Board for site plan review, the Conservation Commission, the Health Officer and Building Inspector and reported upon by all four (4) prior to the public hearing or thirty (30) days have elapsed following such referral without receipt of such reports.

1. Recreation, including golf courses, parks (but not an amusement park) boating, fishing, landings, picnic areas and any non-commercial open-air recreation use, provided there are adequate provision for disposal of waste products and for parking.
2. Dredging, filling, drainage (in compliance with the RSA 149:8a) or otherwise altering the surface configuration of the land; streets, roads and other access ways and utility rights if essential to the productive use of land if so located and constructed as to minimize any detrimental impact of such uses upon the wetland and watershed protection areas.
3. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment and shall be accompanied by the findings of a review by the Rockingham County Soil Conservation Service District of the environment effects of such proposed use upon the wetland and watershed protection area in question.

ARTICLE X

FLOODPLAIN DEVELOPMENT ORDINANCE

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Fremont Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Fremont Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Rockingham County" together with the associated Flood Insurance Rate map of the town dated May 17, 2005 which are declared to be a part of this ordinance and are hereby incorporated by reference.

ITEM I - Definition of Terms

The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of Fremont.

"Area of Shallow Flooding" means a designated A0, AH, or V0 zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.

"Area of Special Flood Hazard" is the land in the floodplain within the Town of Fremont subject to a one percent (1%) or greater possibility of flooding in any given year. The area is designated on the FIRM as zones A and AE.

"Base Flood" means the flood having a one percent (1%) possibility of being equalled or exceeded in any given year.

"Basement" means any area of a building having its floor subgrade on all sides.

"Building" - see "structure".

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

"FEMA " means the Federal Emergency Management Agency.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Study" means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

"Flood Insurance Rate Map" (FIRM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Fremont.

"Flood Insurance Study" - see "Flood elevation study".

"Floodplain" or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

"Floodway" - see "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/ unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,

3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior, or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   (a) By an approved state program as determined by the Secretary of the Interior, or

   (b) Directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than one hundred eighty (180) days.

"Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

"l00-year flood" - see "base flood".

"Recreational Vehicle" means a vehicle which is (i) built on a single chassis, (ii) four hundred (400) square feet or less when measured at the largest horizontal projection, (iii) designed to be self propelled or permanently towable by a light duty truck, and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

"Special flood hazard area" means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on the FIRM as zones A and AE.

"Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Start of Construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

"Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure should equal:

1. The appraised value prior to the start of the initial repair or improvement, or

2. In the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

ITEM II - General Requirements

(A) The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

1. Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,

2. Be constructed with materials resistant to flood damage,

3. Be constructed by methods and practices that minimize flood damages,

4. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(B) Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

(C) For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:

1. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
2. If the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
3. Any certification of floodproofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

(D) The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

(E) 1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Conservation Commission, in addition to the copies required by the RSA 483-A:1-b. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Conservation Commission, including notice of all scheduled hearings before the Wetlands Board (and notice of local wetlands hearings).

2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.

(F) 1. In unnumbered A zones the Building Inspector shall obtain, review, and reasonably utilize any one hundred (100) year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

2. The Building Inspector's one hundred (100) year flood elevation determination will be used as criteria for requiring in zone A that:

(a) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the one hundred (100) year flood elevation.

(b) That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the one hundred (100) year flood level; or together with attendant utility and sanitary facilities, shall:

(i) Be floodproofed so that below the one hundred (100) year flood elevation the structure is watertight with walls substantially impermeable to the passage of water,

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy, and

(iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

(c) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the one hundred (100) year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(i) All recreational vehicles placed on sites within Zones A1-30, AH and AE shall either:

a. be on the site for fewer than 180 consecutive days
b. be fully licensed and ready for highway use; or
c. meet all standards of Section 60.3 (b) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for manufactured homes in paragraph (c) (6) of Section 60.3.

(d) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

(i) The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage,
(ii) The area is not a basement,

(iii) Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

Item III - Variances and Appeals

(A) Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

(B) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

1. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

2. That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

3. That the variance is the minimum necessary, considering the flood hazard, to afford relief.

(C) The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25) for one hundred dollars ($100) of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

(D) The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE XI

AQUIFER PROTECTION DISTRICT

A. AUTHORITY AND PURPOSE

Pursuant to RSA 674:16-21, the Town of Fremont adopts an Aquifer Protection District and accompanying regulations in order to protect, preserve and maintain potential groundwater supplies and related groundwater recharge areas within a known aquifer identified by the Town. The objectives of the aquifer protection district are:

- to protect the public health and general welfare of the citizens of the Town of Fremont;
- to prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifer;
- to promote future growth and development of the Town, in accordance with the Master Plan, by insuring the future availability of public and private water supplies;
- to encourage uses that can appropriately and safely be located in the aquifer recharge areas.

B. ADMINISTRATION

1. General: The provision of the Aquifer Protection District shall be administered by the Planning Board. All development proposals, other than single or two-family residential construction not involving the subdivision of land, shall be subject to subdivision and/or site plan review and approval in accordance with Planning Board rules and regulations. Such review and approval shall precede the issuance of any building permit by the Town.
2. Enforcement: The Board of Selectmen shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District.

C. DEFINITIONS

Animal Feedlot: A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock. An animal feedlot shall be considered one on which more than five (5) animals are raised simultaneously.

Aquifer: For the purpose of this Ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies.

Dwelling Unit: A building or that portion of a building consisting of one or more rooms designed for living and sleeping purposes, including kitchen and sanitary facilities and intended for occupancy by not more than one family or household.

Groundwater: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

Groundwater Recharge: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

Mining of Land: The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

Non-Conforming Use: Any lawful use of buildings, structures, premises, land or parts thereof existing as of the effective date of this Ordinance, or amendment thereto, and not in conformance with the provisions of this Ordinance, shall be considered to be a non-conforming use.

Non-Municipal Well: Any well not owned and operated by the Town of Fremont or its agent.

Recharge Area: The land surface area from which groundwater recharge occurs.

Septage: Liquid or solid waste generated by septic disposal systems. Septic waste containing wash water, gray waters, human feces, excrement, dregs, sediment, grease, oils and any other waste generated in a domestic septic disposal system.

Sludge: Residual materials produced by the sewage treatment process.

Solid Waste: Any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi-solid, or contain gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities.

Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purposes of this Ordinance, buildings are structures.

Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules, Section Ws 410.04 (1), in New Hampshire Solid Waste Rules He-P 1901.03 (v), and in the Code of Federal Regulations 40 CFR 261. Wastes generated by the following commercial activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

- Airplane, boat and motor vehicle service and repair;
- Chemical and bacteriological laboratory operation;
- Dry cleaning;
- Electronic circuit manufacturing;
- Metal plating, finishing and polishing;
- Motor and machinery service and assembly;
- Painting, wood preserving and furniture stripping;
- Pesticide and herbicide application;
- Photographic processing;
- Printing.

D. DISTRICT BOUNDARIES

1. Location

The Aquifer Protection District is defined as the area shown on the map entitled Fremont Water Resources Map 2004.

The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the current ordinances. In all cases, the more restrictive requirement(s) shall apply.

2. Recharge Areas

For the purpose of this Ordinance, the primary recharge area for the identified aquifer is considered to be co-terminus with the Aquifer and the High Potential to Yield Groundwater areas.

No secondary recharge area has been identified at the time of enactment.

3. Appeals

Where the bounds of the identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. The aquifer delineation shall be modified by such determination subject to review and approval by the Planning Board.

E. USE REGULATIONS

1. Minimum Lot Size

The minimum lot size within the Aquifer Protection District for each dwelling unit if a residential use, or each principal building if a non-residential use, shall be three (3) acres, or 130,680 square feet.

2. Hydrogeologic Study

For development proposals within the Aquifer Protection District, a hydrogeologic study shall be performed, by an engineer registered in the State of New Hampshire or a registered hydrologist. This study shall evaluate the development's impacts to groundwater within both the parcel to be developed and the surrounding land. The groundwater quality beyond the property lines of said site shall not be degraded by polluting substances such as nitrates, phosphates, bacteria, etc. Larger lots may be required based on the findings of said study.

This information will be required for proposed subdivisions of four (4) lots or greater. For subdivisions of three (3) lots or less the Planning Board will determine, on a case-by-case basis, the need for a hydrogeologic study. Particularly sensitive sites may include areas that have septic systems in close proximity to wells, or may contain excessively drained soils or steep slopes.

3. Maximum Lot Coverage

Within the Aquifer Protection District, no more than ten percent (10%) of a single lot, may be rendered impervious to groundwater infiltration.

4. Prohibited Uses

The following uses are prohibited in the Aquifer Protection Zone except where permitted to continue as a non-conforming use:

a. Disposal of solid waste including brush or stumps.
b. Storage and disposal of hazardous waste.
c. Disposal of liquid, septage or leachable wastes except that from one or two-family residential subsurface disposal systems, or as otherwise permitted as a conditional use.
d. Subsurface storage of petroleum and other refined petroleum products.
e. Industrial uses which discharge contact type process waters on-site. Non-contact cooling water is permitted.
f. Outdoor unenclosed storage or use of road salt or other de-icing chemicals.
g. Dumping of snow containing de-icing chemicals brought from outside the district.
h. Animal feedlots.
i. Automotive service and repair shops, junk and salvage yards.
j. All on site handling, disposal, storage, processing or recycling of hazardous or toxic materials.
k. Drycleaning or Laundry facilities.

5. Permitted Uses

The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this Ordinance:

a. Land development, per the Fremont Zoning Ordinance, except as prohibited in Section E.4. of this A.P.O.

b. Activities designed for conservation of soil, water, plants and wildlife.
c. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.

d. Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.

e. Foot, bicycle, and/or horse paths and bridges.

f. Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Section E.3. of this A.P.O.

g. Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, herbicides, pesticides, manure and other leachables are used appropriately at levels that will not cause groundwater contamination and are stored under shelter.

h. Special Exceptions

The following uses are permitted as Special Exceptions (in compliance with Town Zoning Ordinance):

1. Industrial and commercial uses not otherwise prohibited in Section E.4. of this A.P.O.

2. Multi-family residential development. (Minimum lot size to be determined by using Article IV Section 3 and substituting three (3) acres instead of two (2) acres).

3. Sand and gravel excavation and other mining provided that such excavation or mining is not carried out within eight (8) vertical feet of the seasonal high water table and that periodic inspections are made by the Planning Board or its agent to determine compliance.

The Board of Adjustment may grant a special exception for those uses listed above only after written findings of fact are made that all of the following are true:

- the proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;

- the proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer;

- the proposed use will discharge no waste water on site other than that typically discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined;

- the proposed use complies with all other applicable sections of this Article.

The Board of Adjustment may require that the applicant provide data or reports prepared by a professional engineer or hydrologist to assess any potential damage to the aquifer that may result from the proposed use. The Board of Adjustment shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria. Costs incurred shall be the responsibility of the applicant.

6. Septic System Design and Installation

In addition to meeting all local and state septic system siting requirements, all new on-lot waste water disposal systems installed in the District shall be designed by a Sanitary Engineer licensed in New Hampshire. These systems shall be installed under the supervision of said engineer. The Planning Board or its agent shall inspect the installation of each new system prior to covering, and shall certify that the system has been installed as designed.

Septic systems are to be constructed in accordance with the most recent edition of the "The State of New Hampshire Subdivision and Individual Sewage Disposal System Design Rules" as published by the New Hampshire Water Supply and Pollution Control Division.

However, the following more stringent requirements shall apply to all septic system construction:

a. There will be no filling of wetlands allowed to provide the minimum distance of septic to wetlands. (Ws 1007.04)

b. The seasonal high water table will be at least two (2) feet below the original ground surface during all seasons of the year (instead of six (6) inches). (Ws 1015.01(a)).

c. There will be at least three (3) feet of natural permeable soil (instead of two (2) feet) above any impermeable subsoil. (Ws 1015.01(b)).

d. There will be at least four (4) feet of natural soil (instead of three (3) feet) above bedrock. (Ws 1015.01(b)).

e. Standards for fill material: Fill material consisting of organic soils or other organic materials such as tree stumps, sawdust, wood chips and bark, even with a soil matrix shall not be used. The in place fill should have less than 15% organic soil by volume. The in place fill should not contain more than 25% by volume of cobbles (six (6) inch in diameter). The in place fill should not have more than fifteen percent (15%) by weight of clay size (.002 mm and smaller) particles. The fill should be essentially homogeneous. If bedding planes and other discontinuities are present, detailed analysis is necessary.

F. DESIGN AND OPERATIONS GUIDELINES

Where applicable the following design and operation guidelines shall be observed within the Aquifer Protection District:

1. Safeguards. Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

2. Location. Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the Zone to the extent feasible.

3. Drainage. All runoff from impervious surfaces shall be recharged on the site, and diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.

4. Inspection. All special exceptions granted under Section 5.h. of this Article shall be subject to twice-annual inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted. A fee for inspection shall be charged to the owner according to a fee schedule determined by the Selectmen.

G. NON-CONFORMING USES

1. Any non-conforming use may continue and may be maintained, repaired and improved, unless such use is determined to be an imminent hazard to public health and safety. No non-conforming use may be expanded, changed to another non-conforming use, or renewed after it has been discontinued for a period of twelve (12) months or more.

2. Any non-conforming lot of record existing before the effective date of this Article may be used in accordance with Section E.2.-E.6. of this Article.

H. EFFECTIVE DATE

This Article shall become effective upon passage at Town Meeting March 1988.

ARTICLE XII

Section 1. These ordinances may be amended by a majority vote of any legal Town Meeting when such amendment is published in the Warrant calling for the meeting and when such amendment has received a public hearing which has been advertised and given a legal ten (10) days notice to conform to present RSA 675.

Section 2. This ordinance shall take effect upon its passage.

ARTICLE XIII

RESERVED (as of March 9, 2004)

ARTICLE XIV

IMPACT FEES FOR PUBLIC CAPITAL FACILITIES ORDINANCE

Section 1. AUTHORITY AND APPLICABILITY

A. This Section is authorized by New Hampshire RSA 674:21 as an innovative land use control. The administration of this Section shall be the responsibility of the Planning Board. This Section, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Section, shall govern the assessment of impact fees imposed upon new development in order to meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Fremont or the Fremont School District.

B. The public facilities for which impact fees may be assessed in Fremont may include water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewer; stormwater, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the proportional share of capital facilities of a cooperative or regional school district of which Fremont becomes a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreation facilities not including public open space.

C. Prior to assessing an impact fee for one or more of the public facilities enumerated above, the Planning Board shall have adopted such studies or methodologies and related fee schedules that provide for a process or method of calculating the proportionate share of capital improvement costs that are attributable to new development. Such calculations shall reasonably reflect the capital cost associated with the increased demand placed on capital facility capacity by new development.

D. The following regulations shall govern the assessment of impact fees for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development.

Section 2. FINDINGS

The Town of Fremont hereby finds that:

A. The Town of Fremont is responsible for and committed to the provision of public facilities and services and standards determined by the Town to be necessary to support development in a manner which protects and promotes the public health, safety and welfare;

B. Capital facilities have been and will be provided by the Town;

C. The Town's legislative body has authorized the Planning Board to prepare and amend a Capital Improvements Program per NH RSA 674:5-8, and the Planning Board has prepared and adopted said program.

D. An impact fee ordinance for capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Fremont;

E. New development in Fremont will create the need for the construction, equipping, or expansion of public capital facilities in order to provide adequate facilities and services for its residents, businesses, and other needs occasioned by the development of land;

F. Impact fees may be used to assess an equitable share of the growth-related cost of public facility capacity to new development in proportion to the facility demands created by that development;

G. In the absence of impact fees, anticipated residential and non-residential growth and associated capital improvement costs could necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety, and welfare;

H. Impact fees assessed pursuant to this Section will not exceed the costs of:
1. Providing additional public capital facilities necessitated by new development in Fremont; and/or
2. Compensating the Town of Fremont or the Fremont School District for facility capacity that it provide in anticipation of new development in Fremont.

Section 3. DEFINITIONS

A. The applicant for the issuance of a permit that would create new development as defined in this section.

B. New Development. An activity that results in:

1. Subdivision, site development, building construction or other land use that results in an increase in demand for capital improvement facilities as identified in the Planning Board's impact fee schedules; or,
2. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted by the Planning Board.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the capital facilities of the Town of Fremont.

Section 4. COMPUTATION OF IMPACT FEE

A. The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Fremont. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate facility capacity to serve new development. Such documentation shall be available for public inspection at the Planning offices of the Town of Fremont.

B. In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net increase in the impact fee assessment for the new use as compared to the impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Section.

Section 5. ASSESSMENT OF IMPACT FEES

A. Impact fees shall be assessed on new development to compensate the Town of Fremont for the proportional share of the public capital facility costs generated by that development.

B. Any person who seeks a permit for new development, including permits for new or modified service connections to the public water system or public wastewater disposal system that would increase the demand on the capacity of those systems, is hereby required to pay the public capital facility impact fees authorized under this Section in the manner set forth herein, except where all or part of the fees are waived in accordance with the criteria for waivers established in this Section.

Section 6. WAIVERS

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed.

A. A person may request a full or partial waiver of school facility impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over. The Planning Board may waive school impact fee assessments on age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy for a period of at least 20 years.

B. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers may not be based on the value of exactions for on-site or off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessments authorized by this Section.

C. The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or constructed capital facility capacity improvements equivalent in value to the dollar amount of the fee(s) waived.

D. The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the capital facility or system for which the impact fee is being assessed.

E. A feepayer may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the feepayer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the proposed development. The independent calculation or study shall set forth the specific reasons for departing from the methodologies and schedules adopted by the Town. The Planning Board shall review such study and render its decision. All costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the feepayer.

A person may request a full or partial waiver of impact fees, other than those that expressly protect public health standards, for construction within a plat or site plan approved by the Planning Board prior to the effective date of this Section (insert date of ordinance posting). Prior to granting such a waiver, the Board must find that the proposed construction is entitled to the four year exemption provided by RSA 674:39, pursuant to that statute.

Section 7. PAYMENT OF IMPACT FEE

A. No permit shall be issued for new development as defined in this Section until the impact fee has been assessed by the Building Inspector. The feepayer shall either agree to pay the impact fee prior to issuance of a building permit or shall post a performance guarantee acceptable to the Planning Board with the Planning Board prior to the issuance of any building permit to ensure payment of all fees. The Building Inspector shall not issue a certificate of occupancy for the development on which the fee is assessed until the impact fee has been paid in full, or has been waived by the Planning Board. In the interim between assessment and collection, the Planning Board may authorize another mutually acceptable schedule for payment, or require the deposit of an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Fremont.

B. Where off-site capital improvements have been constructed, or where such improvements will be constructed simultaneously with new development, and where the Town has appropriated necessary funds to cover such portions of the work for which it will be responsible, the Building Inspector may collect the impact fee for such capital facilities at the time a building permit or a permit to connect to the public water or public wastewater system, is issued.

Section 8. APPEALS UNDER THIS SECTION

A. A party aggrieved by a decision under this Section may appeal such decision to the Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

Section 9. ADMINISTRATION OF FUNDS COLLECTED

A. All funds collected shall be properly identified and promptly transferred for deposit into separate impact fee accounts for each type of public capital facility for which impact fees are assessed. Each impact fee account shall be a non-lapsing special revenue fund account and under no circumstances shall such revenues accrue in the General Fund. The Town Treasurer shall have custody of all accounts.

B. The Treasurer shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership and tax map reference number of properties for which fees have been paid under this Section for each permit so affected for a period of at least ten (10) years from the date of receipt of the impact fee payment associated with the issuance of each permit.

C. Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town or the Fremont School District in the case of school impact fees, for the cost of the public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the Town or the Fremont School District in anticipation of the needs for which the impact fee was collected.

D. In the event that bonds or similar debt instruments have been or will be issued by the Town of Fremont or the Fremont School District for the funding of capacity-related improvements, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.

E. At the end of each month, the Treasurer shall make a report giving a particular account of all impact fee transactions during that month. At the end of each fiscal year, the Treasurer shall make a report to the Board of Selectmen and Planning Board, giving a particular account of all impact fee transactions during the year.

Section 10. USE OF FUNDS

A. Funds withdrawn from the capital facility impact fee accounts shall be used solely for the purpose of acquiring, constructing, equipping, or making improvements to public capital facilities to increase their capacity, or to recoup the cost of such capacity improvements.

B. Impact fee monies, including any accrued interest, that are not assigned in any fiscal period shall be retained within the same public capital facilities impact fee account until the next fiscal period except where a refund is due.

C. Funds may be used to provide refunds consistent with the provisions of this Section.

Section 11. REFUND OF FEES PAID

A. The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:

1. The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or

2. The calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, and the legislative body has failed to appropriate the municipality's share of the capital improvements with six (6) years of complete and final payment of the impact fee assessed.

B. The Board of Selectmen shall provide all owners of record who are due a refund written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

Section 12. ADDITIONAL ASSESSMENTS

Payment of the impact fee under this Section does not restrict the Town or the Planning Board from requiring other payments from the feepayer, including such payments

relating to the cost of the extension of water and sewer mains or the construction of roads or streets or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

Section 13. SCATTERED OR PREMATURE DEVELOPMENT

Nothing in this Section shall be construed so as to limit the existing authority of the Fremont Planning Board to deny new proposed development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Fremont Zoning Ordinance, or the Fremont Planning Board Site Plan Review Regulations or Subdivision Regulations, or which may otherwise be lawfully denied.

Section 14. REVIEW AND CHANGE IN METHOD OF ASSESSMENT

The methodologies adopted by the Planning Board for impact fee assessment, and the associated fee schedules, shall be reviewed periodically and amended as necessary by the Planning Board. Such review shall take place not more than five years from the initial adoption of this Section, nor more frequently than annually, except as required to correct errors or inconsistencies in the assessment formula. Failure to conduct a periodic review of the methodology shall not, in and of itself, invalidate any fee imposed. Any proposal for changes in the impact fee assessment methodology or the associated fee schedule shall be submitted to the Board of Selectmen for its review and comment prior to final consideration of the proposed changes by the Planning Board. The review by the Planning Board and Board of Selectmen may result in recommended changes or adjustments to the methodology and related fees based on the most recent data as may be available. No change in the methodology or in the impact fee schedules shall be adopted by the Planning Board until it shall have been the subject of a public hearing noticed in accordance with RSA 675:7.

ARTICLE XV

PERSONAL WIRELESS SERVICES FACILITIES ORDINANCE

Section 1. AUTHORITY

This ordinance is adopted by the Town of Fremont at the 2002 Town Meeting, in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21, procedurally under the guidance of 675:1, II and in accordance with RSA 12-K.

Section 2. PURPOSE AND GOALS

This Ordinance is enacted in order to effectuate the following goals and standards in permitting the siting of Personal Wireless Services Facilities (PWSF) in accordance with federal and state law:

1. To facilitate the review and approval of personal wireless services facilities by the Town's Planning Board in keeping with the Town's existing ordinances and established development patterns, including the size and spacing of structures and open spaces. This ordinance is intended to be applied in conjunction with other ordinances and regulations adopted by the Town, including historic district ordinances, site plan review regulations and other local ordinances designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development.

    A. Preserve the authority of Fremont to regulate and to provide for reasonable opportunity for the siting of PWSF.

    B. Reduce adverse impacts such facilities may create, including, but not limited to; impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values. To minimize the visual and environmental impacts of personal wireless services facilities by avoiding the deployment of PWSF's that service substantially the same service area.

C. Require, where technically feasible, co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.

D. Permit the construction of new PWSF only where all other reasonable opportunities for co-location have been exhausted.

E. Require the configuration of PWSF in a way that minimizes the adverse visual impact of the facilities and antennas.

F. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town of Fremont.

G. Provide constant maintenance and safety inspections for any and all facilities.

H. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for the Town of Fremont to remove these abandoned towers to protect the citizens from imminent harm and danger.

I. Provide for the removal or upgrade of facilities that are technologically outdated.

J. The regulation of personal wireless services facilities is consistent with the purpose of the Fremont Master Plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; the preservation and protection of the natural resources of Fremont; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

Section 3. APPLICABILITY

A. Public Property.

Antennas or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirements of this ordinance. This partial exemption shall be available if a license or lease authorizing such antenna or tower has been approved by the governing body and the governing body elects subject to state law and local ordinance, to seek the partial exemption from this Ordinance and provided that the facility will be at least partially available for public purpose.

B. Amateur Radio; and/or Receive-Only Antennas.

This ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This ordinance adopts the provisions and limitations as referenced in RSA 674:16, IV.

Modification of existing amateur radio facilities for commercial use shall require full town review in accordance with this ordinance.

C. Essential Services & Public Utilities.

PWSF shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for PWSF is a use of land, and is addressed by this ordinance.

Section 4. DEFINITIONS

A. “Above Ground Level (AGL)” A measurement of height from the natural grade of a site to the highest point of a structure.

B. "Alternative tower structure” Innovative siting techniques that shall mean man-made trees, clock towers, steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

C. “Antenna” The surface from which wireless radio signals are sent and received by a personal wireless service facility.

D. "Average tree canopy height" Means the average height found by inventorying the height above ground level of all trees over a specified height within a specified radius.

E. "Carrier" Means a person that provides personal wireless services.

F. “Co-location” The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

G. “Elevation” The measurement of height above sea level.

H. “Environmental Assessment (EA)” An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

G. "Equipment shelter" Means an enclosed structure, cabinet, shed vault, or box near the base of a mount within which are housed equipment for PWSFs, such as batteries and electrical equipment.

H. "FAA" An acronym that shall mean the Federal Aviation Administration.

I. "FCC" An acronym that shall mean the Federal Communications Commission.

J. "Fall Zone" The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

K. "Functionally Equivalent Services" Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

L. "Guyed Tower" A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

M. "Height" Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

N. "Lattice Tower" A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

O. "Licensed Carrier" A company authorized by the FCC to construct and operate a commercial mobile radio services system.

P. "Monopole" The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

Q. "Mount" Means the structure or surface upon which antennas are mounted and include roof-mounted, side-mounted, ground-mounted, and structure-mounted types.

R. "Omnidirectional (whip) antenna" A thin rod that beams and receives a signal in all directions.

S. "Panel Antenna" A flat surface antenna usually developed in multiples.

T. "Personal Wireless Service Facility" or "PWSF" or "facility" means any "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services.

U. "Personal Wireless Services" Means any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal

communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332 (c)(7)(C)(i).

V. "Planning Board or Board" Shall mean the Town of Fremont Planning Board and the regulator of this ordinance.

W. "Preexisting towers and antennas" Shall mean any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Shall also mean any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Board.

X. "Radio frequency radiation" Means the emissions from personal wireless service facilities.

Y. "Security Barrier" A locked, impenetrable wall or fence that completely seals an area from unauthorized entry or trespass.

Z. "Separation" The distance between one carrier's array of antennas and another carrier's array.

AA. "Stealth Application" Means, for a PWSF, designed to look like a structure which may commonly be found in the area surrounding a proposed PWSF such as, but not limited to, flagpoles, light poles, traffic lights, or artificial tree poles. Also means, for a personal wireless service facility one that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure. (Stealth application is often referred to as "camouflaged" technology.)

BB. "Telecommunications Facilities" Shall mean any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services.

CC. "Tower" Shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

Section 5. CONDITIONAL USE PERMITS

A. All proposals considered for development under the Personal Wireless Facilities Ordinance shall obtain a Conditional Use Permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval.

Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

B. All applicable standards in this ordinance must be met and/or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.

C. Decisions. Possible decisions rendered by the Planning Board, include Approval, Approval with Conditions, or Denial. All decisions shall be rendered in writing, and a Denial shall be in writing and based upon substantial evidence contained in the written record.

Section 6. SITING STANDARDS

A. Use Regulations:

A personal wireless service facility shall require a conditional use permit in all cases and may be permitted as follows:

1. A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower, water tower, cupola or steeple. Such facilities may locate by Conditional Use Permit in all zoning districts within the Town.

2. A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a Conditional Use Permit and may locate in all zoning districts within the Town.

3. A personal wireless service facility that exceeds the height restrictions of Section VI (d) may be permitted by Conditional Use Permit in a designated Wireless Service Overlay District.

4. Principal or Secondary Use: An applicant who successfully obtains permission to site under this ordinance as a second and permitted use may construct PWSF in addition to the existing permitted use. PWSF may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with local development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. PWSF that are constructed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure. Nor shall such facilities be deemed to be an "accessory use".

B. Location:

Applicants seeking approval for personal wireless services facilities shall comply with the following:

1. If feasible, personal wireless services facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.

2. The applicant proposing to build a new tower shall submit an agreement with the Town that maximizes allowance of co-location upon the new structure. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs (prevailing rates) to other telecommunications providers. Failure to provide such an agreement is evidence that the applicant's proposed facility will not integrate with the overall telecommunications facility planning of the Fremont, and grounds for a Denial.

3. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this and any other information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with 676:4 I (g).

4. If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless services facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.

5. The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or conditional use permit.

C. Co-location

1. Licensed carriers shall share personal wireless services facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless services facilities that are stand-alone facilities.
   All applicants for a Conditional Use Permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

   a. A survey of all existing structures that may be feasible sites for co-locating personal wireless services facilities;
   b. Contact with all the other licensed carriers for commercial mobile radio services operating in the County; and
   c. Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

2. In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a Conditional Use Permit to an applicant that has not demonstrated that co-location is not feasible.

3. If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out.

4. If the Planning Board approves co-location for a personal wireless service facility site, the Conditional Use Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Conditional Use Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Conditional use permit shall require a new Conditional Use Permit.

D. Height Requirements:

1. Height, General: Regardless of the type of mount, personal wireless services facilities shall be no higher than ten feet above the average height of buildings or trees within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is

completely camouflaged such as within a flagpole, steeple, chimney, or similar structure. Personal wireless services facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

2. Height, Ground-Mounted Facilities: Ground-mounted personal wireless services facilities shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from average ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless services facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.

3. Height, Side- and Roof-Mounted Facilities: Side- and roof-mounted personal wireless services facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless services facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

4. Height, Existing Structures: New antennas located on any of the following structures existing on the effective date of this ordinance shall be exempt from the height restrictions of this ordinance provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: water towers, guyed towers, lattice towers, fire towers and monopoles.

5. Height, Existing Structures, (Utility): New antennas located on any of the following existing structures shall be exempt from the height restrictions of this ordinance provided that there is no more than a twenty foot (20') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in historic districts.

6. Height, Wireless Facility Overlay Districts: Where the town establishes Wireless Facility Overlay Districts (as designated on the town zoning map), personal wireless services facilities of up to 150 feet in height may be permitted by Conditional Use Permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and Conditional Use Permit regulations set forth in this Ordinance.

E. Setbacks:

1. All personal wireless services facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located.

2. In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a "fall zone".

3. In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless services facilities and their equipment shelters shall not increase any non-conformities.

4. Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.

5. In reviewing a Conditional Use Permit application for a personal wireless service facility, the Planning Board may reduce the required fall zone and/or setback distance of the zoning district, if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

Section 7. DESIGN STANDARDS

Visibility/Camouflage: Personal wireless services facilities shall be camouflaged as follows:

A. Camouflage by Existing Buildings or Structures:

1. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

2. Personal wireless services facilities which are side mounted shall blend with the existing building's architecture and shall be painted or shielded

with material which is consistent with the design features and materials of the building.

B. Camouflage by Vegetation:

If personal wireless services facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless services facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

C. Color:

1. Personal wireless services facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly attached thereto.

2. To the extent that any personal wireless services facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a color determined best to blend in with the natural surroundings and/or background.

D. Equipment Shelters:

1. Equipment shelters shall be located in underground vaults; or

2. Equipment shelters shall be designed consistent with architectural styles and materials per the town's site plan review regulations.
3. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

E. Lighting and Signage:

1. Personal wireless services facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed.

2. Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign regulations.

3. All ground mounted personal wireless services facilities shall be surrounded by a security barrier.

F. Historic Buildings and Districts:

1. Any personal wireless services facilities located on or within an historic structure, as designated by the town, shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

2. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.

3. Personal wireless services facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

G. Scenic Landscapes and Vistas:

1. Any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road, as designated by the town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic vista, scenic landscape or scenic road, the height regulations described elsewhere in this ordinance will apply.

H. Environmental Standards:

1. Personal wireless services facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

2. No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

3. Ground-mounted equipment for personal wireless services facilities shall not generate noise in excess of 50 db at the property line.

4. Roof-mounted or side-mounted equipment for personal wireless services facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

5. Back-up power generation equipment may exceed the required decibel levels if necessary to maintain power to the PWSF during temporary power outages.

I. Safety Standards:

1. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines)

2. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.

3. To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna as abandoned, in accordance with §XII at the owners expense through execution of the posted security.

J. Modifications

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a Conditional Use Permit when the following events apply:

1. The applicant and/or co-applicant wants to alter the terms of the Conditional Use Permit by changing the personal wireless service facility in one or more of the following ways:

(a) Change in the number of facilities permitted on the site;
(b) Change in technology used for the personal wireless service facility.

2. The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

K. Reconstruction or Replacement of Existing Towers and Monopoles

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by Conditional Use Permit, provided that the Planning Board finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Planning Board shall

consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

Section 8. STATE REQUIREMENTS (RSA 12-K)

All wireless carriers or their appointed agents doing business, or seeking to do business, in the Town of Fremont shall:

A. Be allowed to construct new ground-mounted PWSF, provided that these PWSF comply with municipal regulations for maximum height or maximum allowed height above the average tree canopy height, subject to any exceptions, waivers, or variances allowed or granted by the Town.

B. Comply with all applicable state and municipal land use regulations.

C. Comply with all federal, state and municipal statutes, rules and regulations, including federal radio frequency radiation emission regulations and the National Environmental Policy Act of 1969, as amended.

D. Provide information at the time of application to construct an externally visible PWSF to the town of Fremont and to the NH Office of State Planning, as follows:

1. A copy of their license from the Federal Communications Commission (FCC) proving that they are eligible to deploy their systems in this geographical area and that this deployment falls under the jurisdiction of the federal Telecommunications Act of 1996; or a copy of their contract with a person with such a license, and a copy of that license.

2. Detailed maps showing all of the current externally visible tower and monopole PWSF locations in the state within a 20 mile radius of the proposed externally visible PWSF, both active and inactive.

3. Site descriptions for each of the above locations showing the antenna height and diameter, and showing all externally visible structures.

4. A description of why less visually intrusive alternatives for this facility were not proposed.

E. A wireless carrier seeking approval to deploy a wireless communication facility shall be required to pay reasonable fees, including regional notification costs, imposed by the municipality in accordance with RSA 676:4, I (g).

F. Regional Notification: Any municipality or state authority or agency which receives an application to construct a PWSF which may be visible from any other New Hampshire municipality within a 20 mile radius shall provide written

notification of such application and pending action to such other municipality within the 20 mile radius.
The applicant shall be responsible for determining the towns within the 20-mile radius for purposes of notification and shall provide the Planning Board with a list of these towns along with their mailing addresses.

This notification shall include sending a letter to the governing body of the municipality within the 20 mile radius detailing the pending action on the application and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within the 20 mile radius, stating the specifics of the application, the pending action, and the date of the next public hearing on the application. Such notice shall be published not less than 10 days nor more than 21 days prior to the public hearing date.

Municipalities within the 20 mile radius and their residents shall be allowed to comment at any public hearing related to the application. Regional notification and comments from other municipalities or their residents shall not be construed to imply legal standing to challenge any decision.

Section 9. FEDERAL REQUIREMENTS

A. All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna as abandoned, in accordance with §XII, at the owners expense through the execution of the posted security.

B. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal 30 day comment period, and the Town process, shall become part of the application requirements.

Section 10. WAIVERS

A. General

Where the Planning Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with this ordinance or the purposes herein may be served to a greater extent by an alternative proposal, it may approve waivers to the ordinance. The purpose of granting waivers

under provisions of this ordinance shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by said ordinance. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that *all* of the following apply:

1. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.

2. The waiver will not, in any manner, vary the provisions of the Fremont Zoning Ordinance (other than the terms of this ordinance), Fremont Master Plan, or Official Maps.

3. Such waiver(s) will substantially secure the objectives, standards and requirements of the ordinance.

4. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

   (a) Topography and other site features
   (b) Availability of alternative site locations
   (c) Geographic location of property
   (d) Size/magnitude of project being evaluated and availability of co-location.

B. Conditions

In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

C. Procedures

A petition for any such waiver shall be submitted in writing by the applicant. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

Section 11. APPEALS UNDER THIS SECTION

A party aggrieved by a decision under this ordinance may appeal such decision to the New Hampshire Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

Section 12. BONDING AND SECURITY AND INSURANCE

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with §XIII, all security will be required to be maintained by the Town for the life of the tower. Bonding and surety shall be consistent with the provision in the Subdivision or Site Plan Review Regulations. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

Section 13. REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

Section 14. SEVERABILITY

The invalidity of any provision of any section of this Ordinance shall not affect the validity of any other provision, of this Ordinance, nor of the Zoning Ordinance as a whole.

ARTICLE XVI

ELDERLY OPEN SPACE

A. Purpose

The standards in this section have been established for the purpose of encouraging the construction of elderly housing developments (or the conversion of existing structures into elderly housing facilities), which are designed and constructed to meet the unique needs of elderly citizens, while ensuring compliance with local planning standards, land use policies, good building design, and the requirements for the health, safety and general welfare of the inhabitants of Fremont. Such developments shall not include assisted living and/or extended care facilities.

This ordinance has also been developed to incorporate open space development components for elderly housing projects. The Town of Fremont understands the importance of maintaining open space as a way of preserving rural character, protecting wildlife habitat and preserving important natural resource areas. In an effort to achieve these goals, this ordinance encourages the placement of elderly housing units in relatively compact areas within the development site in order to leave large undeveloped areas free of negative development impacts.

The Town of Fremont recognizes that one aspect of elderly housing development is that the housing built will continue to be put to this use in perpetuity, consistent with restrictive covenants and consistent with the provisions of state and federal law that permit housing units to be restricted by age.

This ordinance is also developed to allow mixed-use development to occur within the project. The standards herein allow service and retail facilities to be developed in conjunction with the creation of elderly housing. These mixed uses are allowed and encouraged because of their inherent connection to the needs of elderly residents and because such uses expand the feeling of community within the elderly development. This Ordinance is adopted pursuant to the provisions of RSA 674:21 (Innovative Land Use Controls), and the Planning Board is herby empowered and authorized to administer this Ordinance in conjunction with the Selectmen and building officials of the Town of Fremont.

B. General Standards

All elderly housing developments shall conform to the following standards:

1. Elderly housing developments shall be permitted as an overlay district thereby allowed anywhere throughout the Town of Fremont. All elderly housing developments shall occur on a parcel that is a minimum of 20 acres in size and shall have at least fifty feet (50') of frontage on a Class V road or higher.

2. The total number of elderly housing units approved by the Board under this ordinance in the Town of Fremont shall not exceed ten percent of the total dwelling units in the Town of Fremont. (Explanatory note: for example, the 2000 US Census details 1,201 dwelling units in the Town of Fremont therefore allowing 120 elderly units total).

3. The maximum number of bedrooms allowed on a site is three per acre of upland, and shall be calculated as follows:

    a) Subtract very poorly and poorly drained soils, alluvial soils, and soils with slopes greater than twenty-five (25) % from the total parcel acreage.

    b) Subtract 10% of the remaining land for roads and utilities.

    c) Multiply the resultant acreage by three bedrooms to get the maximum number of bedrooms allowed on the site.

The allowed number of units may be grouped or dispersed over the non-open space areas in any fashion within the limits imposed by this ordinance and existing septic system siting requirements.

If the development is located within the Aquifer Protection District the number of bedrooms allowed per acre of upland is two.

4. Dwelling units shall be specifically designed to provide housing for elderly residents 55 years old or older. Units shall have a maximum of two bedrooms, may not exceed thirty-five feet (35') in height, and may be either one or two stories. Buildings shall be separated by a minimum space of thirty-five feet (35'). This spatial relationship may be required to be larger if Planning Board review finds that this standard results in inadequate light and air between structures. No building shall exceed more than six individual units per structure. No individual unit shall exceed 1,500 square feet of living space, and no single-family building shall exceed 1,500 square feet in living space.

5. Adequate on site space shall be provided for off-street parking for two vehicles per dwelling unit.

6. Building massing and style shall be distinctly residential in character, drawing on historical design elements that are consistent with rural New England architecture and which feature characteristics such as pitched roofs, clapboard or shingle siding, raised panel exterior doors and divided light windows. All such elderly housing developments shall be designed and constructed to compliment and harmonize with the surrounding areas, particularly with regard to the size and scale of the development and its prominence and visibility to the community generally and to surrounding neighborhoods in particular.

7. Except as provided for by this Elderly Housing ordinance, all such elderly housing developments shall comply in all respects with the Town of Fremont's Zoning Ordinance, Site Plan Review Regulations and/or Subdivision Regulations.

8. Dwelling units may be owner-occupied or rented. However, all permanent

residents of all elderly housing units shall be at least 55 years of age.

9. The design and site layout of all such elderly housing developments shall compliment and harmonize with the rural character of the Town of Fremont, shall maximize the privacy of dwelling units and preserve the natural character of the land.

10. All such elderly housing developments shall make provision for pedestrian access (including amenities such as benches, street and path lighting, sidewalks and crosswalks) within the development and, to the extent possible, to off-site community facilities.

11. Each development shall incorporate the construction of a common/community facility to be used for homeowners' association meetings or general community activities. This facility can be incorporated into one of the housing structures or it can be a stand-alone building. For developments of less than twenty dwelling units this community facility is encouraged but not required.

12. All such elderly housing developments shall be landscaped to enhance their compatibility with surrounding areas, with emphasis given to the utilization of natural features wherever possible. The Planning Board may require a plan developed by a landscape architect be prepared for each development.

13. The perimeter of the areas of housing or mixed use development within the site shall be treated with a landscaped buffer zone of a minimum of twenty-five feet (25') which may consist in whole or in part of existing natural grown vegetation.

14. The Planning Board shall require that all roads within the development -- whether owned privately or not -- be built according to Town standards.

15. The Planning Board retains the right to approve the specific road and structure layouts for the purpose of the health, safety, and welfare of the town as well as for efficiency and aesthetic variety and quality of design.

16. The applicant shall demonstrate that all units have been designed to meet the needs and accessibility requirements of the elderly as reflected in the HUD's Fair Housing Accessibility Guidelines.

    All units shall be built in accordance with applicable federal, state and local building codes.

C. Common Land/Open Space

In every elderly housing development, common land/open space shall be set aside and covenanted to be maintained permanently as open space. The required amount of open space for all elderly housing developments shall be calculated as follows:

1. No less than 33% of the gross upland area of the development shall be allocated to open space. Upland area is defined as all soils with slopes less than twenty-five 25 %, and excludes poorly and very poorly drained soils, alluvial soils (subject to flooding), and water bodies. The Planning Board will review each proposal with an eye toward ensuring that the proposed common areas are contiguous, disapproving proposals that carve the open space into small segments that do not achieve the goals defined in the Purpose Section above. It is recommended that sixty (60) to eighty (80) percent of the common areas should be contiguous.

   In calculating common/open space area the following shall not be included: public right-of-way, alluvial, very poorly and poorly drained soils, soils with slopes over 25%, and parking lots.

   Use of Common Land: Such common land shall be restricted to open space recreational uses such as parks, swimming pools, tennis courts, golf courses, the common meeting facility (found in Section B 11 above), or conservation. While the setbacks, front, rear, and side, are considered part of the common land, none of the above uses shall be allowed within these areas, nor any other uses that would disturb the natural vegetation within these areas. 90% of the common/open space shall remain undisturbed. These restrictions of the use of the common land (including the landscaped buffered area) shall be stated in the covenants running with the land.

2. Access to open space/common land. Such common land shall have suitable access via a trail, within the development.

3. Protection of Common Land. Open space, common areas, common facilities, private roadways, and other features within the elderly housing development shall be protected by covenants running with the land and shall be conveyed by the property owners to a homeowners association so as to guarantee the following:

   a) The continued use of land for the intended purposes.
   b) Continuity of proper maintenance for those portions of the development requiring maintenance.
   c) The availability of funds required for such maintenance.
   d) Recovery for loss sustained as a result of casualty, condemnation or otherwise.
   e) Creation of a homeowners association or tenancy-in-common or similar form of ownership, with automatic membership and obligation of the residents of the elderly housing development upon conveyance of title or lease to single dwelling units. Homeowners association, tenancy-in-common, or similar form of ownership shall include lien provisions and shall be subject to review and approval by the Planning Board.

D. It shall be the responsibility of the developer/builder of each such elderly housing development to establish a Home Owner's Association and to prepare and adopt appropriate Articles and By-Laws which are to be submitted in advance to the Planning Board and Town Counsel for their review and approval. In preparing the Articles and By-Laws, particular consideration shall be given to accommodating the

unique needs of the elderly citizens and to ensuring that residents of such developments are guaranteed adequate and appropriate services. The creation of the Home Owner's Association and the Articles and By-Laws shall be at the sole expense of the developer/builder and the costs of the review by the Planning Board and Town Counsel shall also be born by the developer/builder. Any association formed for the purpose of elderly housing must have stipulated in their By-Laws and Declaration of Covenants that the Association will at all times be in compliance with current Fremont Ordinances governing elderly housing.

The Applicant/Owner shall incorporate a written enforcement mechanism satisfactory to the Planning Board and its legal counsel whereby on an annual basis, a written age based census of the existing Occupants shall be provided to the Board of Selectmen. Upon any change in ownership or tenancy, the age of any new Occupants shall be given to the Board of Selectmen within thirty (30) days of tenancy/ownership changes.

E. Mixed Use Component

Each elderly housing development is encouraged to incorporate retail and /or service facilities. All proposals must comply with the Site Plan Review Regulations of the Town of Fremont as well as building design criteria found in this Ordinance.

F. The Planning Board shall maintain and exercise the authority to approve or disapprove all proposed elderly housing developments. The Planning Board shall act reasonably in exercising such discretionary authority but shall take into consideration such factors, for example, as: the health, safety and general welfare of the citizens of Fremont; the aesthetic impact on immediately surrounding areas; whether the design is adequate to meet the unique needs of elderly residents; whether the Articles and By-Laws operate to serve the unique needs of elderly residents; the burdens created by additional demands on Town services; and whether the proposed development complies with the requirements of this Elderly Housing Ordinance, as well as, with the requirement of Fremont's Zoning Ordinance and Subdivision and Site Plan Regulations.

G. Residency restrictions for residential projects approved under the Elderly Housing Ordinance shall be accomplished by restrictions recorded in deeds, Condominium Declarations, and/or other documents recorded at the Rockingham County Registry of Deeds. All deeds and covenants shall be subject to review by Town Counsel at the sole expense of the developer/builder, and shall be approved by the Planning Board. Covenants shall expressly provide that they may be specifically enforced by the Town, whether by injunctive relief or otherwise. Covenants shall be signed by the Planning Board, and shall contain language specifying that Board approval is required for any subsequent changes to the covenants. Covenants shall expressly provide that they shall not be amended or modified, nor waivers granted there under, without the prior written approval of the Planning Board.

H. The following terms shall have the following meanings for the purpose of interpreting these Elderly Housing Regulations:

1. Elderly Housing Development: Housing contained in a development intended for occupancy by people 55 years of age and older, and which features predominantly small single family units, apartments and/or condominiums.

2. Bedroom: a room with an interior door and a closet.

I. This ordinance shall be reviewed annually by the Planning Board to ascertain whether the balance between the number of standard residential dwelling units and elderly housing units continues to reflect the stated goals of the Fremont Master Plan and the community's long-term planning intentions.

ARTICLE XIV

IMPACT FEES FOR PUBLIC CAPITAL FACILITIES ORDINANCE

Section 1. AUTHORITY AND APPLICABILITY

A. This Section is authorized by New Hampshire RSA 674:21 as an innovative land use control. The administration of this Section shall be the responsibility of the Planning Board. This Section, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Section, shall govern the assessment of impact fees imposed upon new development in order to meet the

needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Fremont or the Fremont School District.

B. The public facilities for which impact fees may be assessed in Fremont may include water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewer; stormwater, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the proportional share of capital facilities of a cooperative or regional school district of which Fremont becomes a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreation facilities not including public open space.

C. Prior to assessing an impact fee for one or more of the public facilities enumerated above, the Planning Board shall have adopted such studies or methodologies and related fee schedules that provide for a process or method of calculating the proportionate share of capital improvement costs that are attributable to new development. Such calculations shall reasonably reflect the capital cost associated with the increased demand placed on capital facility capacity by new development.

D. The following regulations shall govern the assessment of impact fees for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development.

Section 2. FINDINGS

The Town of Fremont hereby finds that:

A. The Town of Fremont is responsible for and committed to the provision of public facilities and services and standards determined by the Town to be necessary to support development in a manner which protects and promotes the public health, safety and welfare;

B. Capital facilities have been and will be provided by the Town;

C. The Town's legislative body has authorized the Planning Board to prepare and amend a Capital Improvements Program per NH RSA 674:5-8, and the Planning Board has prepared and adopted said program.

D. An impact fee ordinance for capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Fremont;

E. New development in Fremont will create the need for the construction, equipping, or expansion of public capital facilities in order to provide adequate facilities and services for its residents, businesses, and other needs occasioned by the development of land;

F. Impact fees may be used to assess an equitable share of the growth-related cost of public facility capacity to new development in proportion to the facility demands created by that development;

G. In the absence of impact fees, anticipated residential and non-residential growth and associated capital improvement costs could necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety, and welfare;

H. Impact fees assessed pursuant to this Section will not exceed the costs of:
1. Providing additional public capital facilities necessitated by new development in Fremont; and/or
2. Compensating the Town of Fremont or the Fremont School District for facility capacity that it provide in anticipation of new development in Fremont.

Section 3. DEFINITIONS

C. The applicant for the issuance of a permit that would create new development as defined in this section.

D. New Development. An activity that results in:

1. Subdivision, site development, building construction or other land use that results in an increase in demand for capital improvement facilities as identified in the Planning Board's impact fee schedules; or,
2. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted by the Planning Board.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the capital facilities of the Town of Fremont.

Section 4. COMPUTATION OF IMPACT FEE

A. The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Fremont. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate facility capacity to serve new development. Such documentation shall be available for public inspection at the Planning offices of the Town of Fremont.

B. In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net

increase in the impact fee assessment for the new use as compared to the impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Section.

Section 5. ASSESSMENT OF IMPACT FEES

A. Impact fees shall be assessed on new development to compensate the Town of Fremont for the proportional share of the public capital facility costs generated by that development.

B. Any person who seeks a permit for new development, including permits for new or modified service connections to the public water system or public wastewater disposal system that would increase the demand on the capacity of those systems, is hereby required to pay the public capital facility impact fees authorized under this Section in the manner set forth herein, except where all or part of the fees are waived in accordance with the criteria for waivers established in this Section.

Section 6. WAIVERS

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed.

A. A person may request a full or partial waiver of school facility impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over. The Planning Board may waive school impact fee assessments on age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy for a period of at least 20 years.

B. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers may not be based on the value of exactions for on-site or off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessments authorized by this Section.

C. The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or

constructed capital facility capacity improvements equivalent in value to the dollar amount of the fee(s) waived.

D. The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the capital facility or system for which the impact fee is being assessed.

E. A feepayer may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the feepayer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the proposed development. The independent calculation or study shall set forth the specific reasons for departing from the methodologies and schedules adopted by the Town. The Planning Board shall review such study and render its decision. All costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the feepayer.

A person may request a full or partial waiver of impact fees, other than those that expressly protect public health standards, for construction within a plat or site plan approved by the Planning Board prior to the effective date of this Section (insert date of ordinance posting). Prior to granting such a waiver, the Board must find that the proposed construction is entitled to the four year exemption provided by RSA 674:39, pursuant to that statute.

Section 7. PAYMENT OF IMPACT FEE

A. No permit shall be issued for new development as defined in this Section until the impact fee has been assessed by the Building Inspector. The feepayer shall either agree to pay the impact fee prior to issuance of a building permit or shall post a performance guarantee acceptable to the Planning Board with the Planning Board prior to the issuance of any building permit to ensure payment of all fees. The Building Inspector shall not issue a certificate of occupancy for the development on which the fee is assessed until the impact fee has been paid in full, or has been waived by the Planning Board. In the interim between assessment and collection, the Planning Board may authorize another mutually acceptable schedule for payment, or require the deposit of an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Fremont.

B. Where off-site capital improvements have been constructed, or where such improvements will be constructed simultaneously with new development, and where the Town has appropriated necessary funds to cover such portions of the work for which it will be responsible, the Building Inspector may collect the impact fee for

such capital facilities at the time a building permit or a permit to connect to the public water or public wastewater system, is issued.

Section 8. APPEALS UNDER THIS SECTION

B. A party aggrieved by a decision under this Section may appeal such decision to the Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

Section 9. ADMINISTRATION OF FUNDS COLLECTED

A. All funds collected shall be properly identified and promptly transferred for deposit into separate impact fee accounts for each type of public capital facility for which impact fees are assessed. Each impact fee account shall be a non-lapsing special revenue fund account and under no circumstances shall such revenues accrue in the General Fund. The Town Treasurer shall have custody of all accounts.

B. The Treasurer shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership and tax map reference number of properties for which fees have been paid under this Section for each permit so affected for a period of at least ten (10) years from the date of receipt of the impact fee payment associated with the issuance of each permit.

C. Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town or the Fremont School District in the case of school impact fees, for the cost of the public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the Town or the Fremont School District in anticipation of the needs for which the impact fee was collected.

D. In the event that bonds or similar debt instruments have been or will be issued by the Town of Fremont or the Fremont School District for the funding of capacity-related improvements, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.

E. At the end of each month, the Treasurer shall make a report giving a particular account of all impact fee transactions during that month. At the end of each fiscal year, the Treasurer shall make a report to the Board of Selectmen and Planning Board, giving a particular account of all impact fee transactions during the year.

Section 10. USE OF FUNDS

A. Funds withdrawn from the capital facility impact fee accounts shall be used solely for the purpose of acquiring, constructing, equipping, or making improvements to public capital facilities to increase their capacity, or to recoup the cost of such capacity improvements.

B. Impact fee monies, including any accrued interest, that are not assigned in any fiscal period shall be retained within the same public capital facilities impact fee account until the next fiscal period except where a refund is due.

C. Funds may be used to provide refunds consistent with the provisions of this Section.

Section 11. REFUND OF FEES PAID

A. The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:

1. The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or

2. The calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, and the legislative body has failed to appropriate the municipality's share of the capital improvements with six (6) years of complete and final payment of the impact fee assessed.

B. The Board of Selectmen shall provide all owners of record who are due a refund written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

Section 12. ADDITIONAL ASSESSMENTS

Payment of the impact fee under this Section does not restrict the Town or the Planning Board from requiring other payments from the feepayer, including such payments relating to the cost of the extension of water and sewer mains or the construction of roads or streets or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

Section 13. SCATTERED OR PREMATURE DEVELOPMENT

Nothing in this Section shall be construed so as to limit the existing authority of the Fremont Planning Board to deny new proposed development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Fremont Zoning Ordinance, or the Fremont Planning Board Site Plan Review Regulations or Subdivision Regulations, or which may otherwise be lawfully denied.

Section 14. REVIEW AND CHANGE IN METHOD OF ASSESSMENT

The methodologies adopted by the Planning Board for impact fee assessment, and the associated fee schedules, shall be reviewed periodically and amended as necessary by the Planning Board. Such review shall take place not more than five years from the initial adoption of this Section, nor more frequently than annually, except as required to correct errors or inconsistencies in the assessment formula. Failure to conduct a periodic review of the methodology shall not, in and of itself, invalidate any fee imposed. Any proposal for changes in the impact fee assessment methodology or the associated fee schedule shall be submitted to the Board of Selectmen for its review and comment prior to final consideration of the proposed changes by the Planning Board. The review by the Planning Board and Board of Selectmen may result in recommended changes or adjustments to the methodology and related fees based on the most recent data as may be available. No change in the methodology or in the impact fee schedules shall be adopted by the Planning Board until it shall have been the subject of a public hearing noticed in accordance with RSA 675:7.

Town of Fremont NH
ZONING ORDINANCE AMENDMENTS
Chronology of Adoptions and Changes
Ordinance Adopted 1947

ARTICLE III

Section I - non-conforming uses
2002 - Replaced in entirety

Sections 5 & 6
1971 Definition - Trailer camps and Mobile Homes

Section 5
2002 - Replaced in entirety

ARTICLE IV

Section 1

1971 - Property street setback to 30'; side and rear setbacks to 20' amend to delete CC or a distance no nearer the front property line than the average distance of existing properties for five hundred feet, in either direction along and on the same side of said street, but shall be set back at least ten feet in any case:
1974 - Modify by adding provisions for multi-family dwellings
1987 - change street setback from 30' to 50'; side and rear setbacks from 20' to 30'

Section 2
1971 - Property frontage from 100' to 150'
1974 – modify by adding provisions for multi-family dwellings
1979 - delete " lakes, ponds & rivers "and "shoreline"
1985 - add" no lot shall be less than 100' and shall have no less than 4 lot lines"
1987 - change property frontage from 150' to 200'
2004 – amend to include contiguous frontage

Section 3
1971 New - Minimum lot area to one (1) acre
1974 - Modify by adding provisions for multi-family dwellings
1987 - change minimum lot area from one (1) acre to two (2) acres
Sections 4, 5 & 6 (now 4 & 5) parking and occupied percentage of building lot

Section 4
2005 This section removed. Left as vacant instead of renumbering.

Section 7 (now 6) definition of buildable area
1975 - adopted new - 3/4 acre contiguous dry
1985 - amended to omit " wetlands as described in this zoning ordinance are excluded as buildable land"
1987 - change to " I acre contiguous dry"

Sections 5A & B - building practices and materials
1993 - remove
Section 8 (now 7)
1995 - Adopted new
1987 - Amended to conform to two (2) acre lot size

Section 9 (now 8) Sanitary systems
1985 - Adopted new (20' septic to property line, 100' septic to well and 100' septic to wetlands)
1987 - Amended to conform to two (2) acre lot size
1993 - change "to require the presence of a certified soil scientist or other approved official during excavation of test pits and/or percolation tests that will certify all results with his seal and/or signature"

Section 9 (grandfather clause)
1987 - Adopted new

Section 10
1998 - Adopted new (defined multi-family units and the need for Site Plan Review)

ARTICLE IV-A

1975 - Adopted new - number of allowed building permits
1992 - removed

ARTICLE V

1974 - Clarification of building construction requirements

Section 1
1987 - adopted new - section I (BOCA Code)
1992 - amend to " most current Boca Code"
2004 – amend to the 2000 edition of the ICC Codes

Section 2
1971 - amended from "400 sq. ft." to "600 sq. ft. inside measurement and 150 sq. ft. per occupant"

Section 9 (now 3)
1974 - Adopted new (building height) 2 1/2 stories and 35'
Section 4
1994 - Add " all new building lots with occupied dwellings and buildings to have a State approved septic system"

Section 10 (now 6)
1974 - Adopted new (size on Multi-family dwellings)
1979 - add "single or"

Section 8
1*994* – Change to exempt accessory buildings from building permits

Section 11 (now 9)
1974 - Adopted requirement for conversion of existing structures to multi-family dwellings
1979 - add "single or"

Section 10
1987 - Adopted new (Life Safety Code)

2004 – Adopted Life Safety Code in accordance with NFPA Section 101 – 2000 Edition

ARTICLE V-A

1992 - Add "The Planning Board will regulate all gravel operations in accordance with the excavation regulations adopted by the Planning Board and the most current State regulations (RSA 155-E or most current)

Section 1
1994 - change the reference from gravel regulation to excavation regulation

ARTICLE VI

Section 1
2004 – add "or designee" after Board of Selectmen

Section 2
2004 – add "or designee" after Board of Selectmen

Section 3
2004 – add "or designee" after Board of Selectmen

Section 4
2004 – add "or designee" after Board of Selectmen

ARTICLE VII

Section hV
1995 - from "four" to "three" members

ARTICLE VIII

Section 3
2003 – change fine from $10.00 per day to $275.00 per day

ARTICLE IX (Watershed)

1985 - Adopted new including sections A through G (excluding F-4)

Section C-1
1998 - Amend the definition of wetland
2005 – Amend the definition of wetland

Section C-2-c
2005 – Amend the definition of Watershed Protection Area

Section C-2-d
2000 - Adopted new
2004 – increase wetland setbacks where slopes exceed 12%

Section C 3
2003 – Adopted new (definition of prime wetlands)

Section F-3
1988 - Amend to strike "watershed and" so the ordinance reads "Wetlands area shall not be used to satisfy the minimum lot area and setback requirements, but may be included in total lot area"

Section F-4
1988 - Adopted new

Section G
2003 – Added new – designation of Spruce Swamp as a prime wetland

Section H
2003 – Formerly known as Section G (no change, just renumbered due to addition of Prime Wetland designation as Section G)

ARTICLE X

1993 - Amended to become Article XII and insert the previously adopted floodplain ordinance as Article X with revisions to wording pertinent to Fremont.
2005 – Second paragraph changed to update FEMA maps Flood Insurance Study for Rockingham County, making maps effective date May 17, 2005.

Item 11-F C- 1
2000 - Adopted new

ARTICLE XI (Aquifer)

1988 – Adopted new – Aquifer Protection District including A through H

Section D 1
2005 – Updated Map to Fremont Water Resources Map 2004

Section E (4) (C)
1994 – Added new

ARTICLE XIII

1998 – Added new (Interim Growth Control Ordinance)
1999 – Adopted replacement (Growth Management and Innovative Land Use Control Ordinance)
2001 – Replaced

2004 – Removed Growth Management Ordinance and rename as Reserved

ARTICLE XIV (Impact Fee Ordinance)

2002 – Adopted new

ARTICLE XV (Personal Wireless Services Facilities Ordinance)

2002 – Adopted new

ARTICLE XVI (Elderly Open Space)

2004 – Adopted new
2005 – Renamed from Elderly Housing Ordinance

Section B 2
2005 – amended to clarify the number of housing units